

**RECEIVED  
CENTRAL FAX CENTER****JUL 19 2005****PATENT  
5468-08600/AUS920010401US1****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re Application of:  
Kumhyr et al.

Serial No. 09/966,833

Filed: September 28, 2001

For: DETERMINING AVAILABILITY OF  
PARTICIPANTS OR TECHNIQUES  
FOR COMPUTER-BASED  
COMMUNICATION

Group Art Unit: 2143

Examiner: Jerry B. Dennison

Atty. Dkt. No: AUS920010401US1

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Commissioner for Patents, P.O. Box 1450, Alexandria, VA  
22313, on the date indicated below.

07/19/2005  
Date

Kevin L. Daffer

**DECLARATION UNDER 37 C.F.R. 1.131**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

I, David Kumhyr, hereby declare and state that:

1. I am one of the named co-inventors in the above-identified patent application, which is a U.S. patent application, Serial No. 09/966,833, filed September 28, 2001.
2. I have been informed that in the present application, certain claims have been rejected on reference to Bauer, Jr. et al., U.S. Patent Application No. 2002/0083134, published June 27, 2002 and filed on December 22, 2000.

**CONCEPTION**

3. As set forth in more detail below, I conceived the subject matter claimed in the present application within the United States before December 22, 2000. The subject matter includes a method for establishing a computer-based communications session, where the method includes: determining the availability of a

potential participant in the communications session, and displaying information on a display screen of a computer according to the determined availability. In some cases, the displayed information may indicate the availability of the potential participant for communication using each of a plurality of dissimilar communications applications available for use in the communications session. In some cases, the step of determining may include retrieving the availability information for the potential participant from a data structure.

4. Exhibit A attached hereto is a true and correct copy of the invention disclosure consisting of seven (7) pages which evidences our conception date before December 22, 2000. For example, Exhibit A shows that the invention disclosure document was created on May 16, 2000. The actual date of conception (i.e., the date the invention was "workable") has been redacted from Exhibit A. The invention disclosure is only one example of an earlier conception date of our invention set forth in the claims of our captioned patent application.

5. Exhibit A describes the broad concepts behind Conversational Convergence software, which enables users to establish a computer-based communications session using one or more dissimilar communications applications. As shown on page 3 of the invention disclosure, a particular communications application may be chosen from a list of Available Communications Applications (e.g., Lotus Notes 5.03, Netscape 6.0, and AIM 4.3.229). In addition to application availability, a particular communications application may be chosen based on the availability of a potential participant in the communications session. For example, page 4 of the invention disclosure shows that the Conversational Convergence software may determine the current availability of all members for the set of available communications applications. The screen shot on page 3 of the invention disclosure shows that the availability information may be displayed on a display screen.

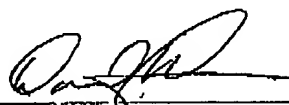
#### **REDUCTION TO PRACTICE AND DILIGENCE**

10. From at least a time prior to December 22, 2000 through the filing of the application on September 28, 2001, plans were undertaken to prepare the captioned patent application, which was commissioned to Kevin Daffer at Conley, Rose & Tayon, P.C. We did not abandon, suppress, or conceal the ideas set forth in the claimed invention during at least the time beginning just prior to December 22, 2000 through the filing of the application on September 28, 2001.

11. Upon information and belief, it is my informed understanding that diligence in reducing the invention to practice was therefore maintained from at least as early as May 16, 2000 through the filing of the application on September 28, 2001.

12. We hereby declare that all statements made herein of our own knowledge are true and that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: 30 June 05



David Kumhyr